

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**ARIES BUILDING SYSTEMS, LLC,**  
*Plaintiff,*

**vs.**

**VANGUARD UNIVERSITY OF  
SOUTHERN CALIFORNIA,**  
*Defendant.*

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**Civil Action No. \_\_\_\_\_**

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**PLAINTIFF ARIES BUILDING SYSTEMS, LLC’S  
ORIGINAL COMPLAINT**

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COMES NOW, Plaintiff Aries Building Systems, LLC (“Aries”), by and through its attorney, and files its Complaint against the above-named Defendant, Vanguard University of Southern California (“Vanguard”), for the reasons set forth below.

**I. Nature of the Action**

1. This is an action for breach of a written contract and conversion. This action seeks liquidated damages, attorney’s fees, all costs of the action, and pre- and post-judgment interest for Vanguard’s breach of contract and conversion of Aries’ personal property.

**II. Parties**

2. Plaintiff Aries Building Systems, LLC is a Texas limited liability company with a principal place of business located at 12621 Featherwood Drive, Suite 300, Houston, Harris County, Texas 77034. Aries manufactures modular buildings for temporary and permanent use.

3. Defendant Vanguard University of Southern California is a California Non-Profit corporation and operates as a private university located at 55 Fair Drive, Costa Mesa, California.

Citation may be served on its agent for service of process Jeremy Daniel Moser, 55 Fair Drive, Costa Mesa, California 92626, *or wherever he may be found*.

### **III. Jurisdiction and Venue**

5. Jurisdiction is proper in this district under 28 U.S.C. § 1332(a)(1) because the parties are citizens of different States and the amount in controversy exceeds \$75,000. Aries is a citizen of Texas and Vanguard is a citizen of California.

6. Venue is proper in this judicial district pursuant to the parties' written agreement wherein jurisdiction and venue were to be adjudicated in the Southern District of Texas, Houston Division.

### **IV. Conditions Precedent**

7. All conditions precedent have been performed or have occurred.

### **V. Factual Allegations**

8. Aries and Vanguard entered into a sales agreement (the "Sale Agreement") in which Vanguard purchased one (1) 60x72 Modular Office building (the "Building"). A true and correct copy of the Sale Agreement is attached as Exhibit 1. The Sale Agreement also required Vanguard to pay for the set-up and installation of the Building (the "Project").

9. The total Sale Agreement price varied depending on the multiple change orders that occurred throughout the Project. Each change order would reduce or increase Aries' scope of work. The first change order increased the Sale Agreement price by \$34,398.32 to a total of \$724,356.25.

10. A second change order was agreed upon and the Sale Agreement price decreased to \$612,085.57. The second change order reduced Aries' scope of work and responsibilities as Vanguard chose to use third-party contractors. A third and final change order increased the Sale Agreement price to \$615,585.57. True and correct copies of all the change orders are attached hereto as Exhibit 2.

11. As the Project was being completed, Vanguard failed to make payments as required under the Sale Agreement. Aries sought to issue a “Stop Work Notice” on July 22, 2019. Instead, Aries gave Vanguard a month to cure their payment deficiencies.

12. Vanguard failed and/or refused to make complete payments to Aries. Further, Vanguard refused to let Aries workers complete their jobs on the Project. The combination of nonpayment and Project difficulties caused by Vanguard forced Aries to issue a “Stop Work Notice.” As of August 29, 2019, Vanguard owes \$289,455.97 under the Sale Agreement.

**VI. Causes of Action  
First Cause of Action  
(Breach of Contract)**

13. Aries incorporates by this reference the allegations set forth in the paragraphs above as if fully set forth herein.

14. Vanguard and Aries entered into a valid agreement to install a commercial modular Building. Aries has provided the Building and spent significant time and resources installing the Building in California. However, Vanguard has failed to pay for the Building as required under the Sale Agreement. Further, Vanguard is presently in possession of and using and enjoying the Building.

15. The Sale Agreement between Aries and Vanguard is valid. Vanguard has failed to pay \$289,455.97 of the Sale Agreement price, which includes all the change orders. Aries has been damaged due to Vanguard’s breach.

**Second Cause of Action  
(Conversion)**

16. Aries incorporates by this reference the allegations set forth in the paragraphs above as if fully set forth herein.

17. In the alternative, Vanguard has wrongfully assumed and exercised dominion and control over the personal property of Aries. Vanguard assumed and exercised control over Aries’

property without Aries' authorization, to the exclusion of, or inconsistent with, Aries' rights as an owner. The Building is personal property of Aries, and Aries retains full control and title over the Building until full payment is made by Vanguard.

18. Vanguard has locked Aries out of the Building which has prevented Aries from completing the project. Aries has made a demand for the Building and/or for Vanguard to fully comply with the Sale Agreement. Vanguard has refused to compensate Aries or return the Building.

#### **VII. Damages**

19. As a direct and proximate result of Vanguard's conduct, Aries has suffered actual damages in the amount of \$289,455.97.

#### **VIII. Attorney's Fees**

20. Aries is entitled to reasonable and necessary attorney's fees under TEX. CIV. PRAC. & REM. CODE § 38.001, *et al.* Further, Aries is entitled to attorney's fee under paragraph 10 of the Contract.

#### **Prayer for Relief**

21. WHEREFORE, Aries demands judgment against Vanguard for actual damages; for reasonable and necessary attorney's fees; for costs herein incurred; and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

Murray | Lobb, PLLC

By: /s/ Kyle L. Dickson

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